

OGC 77-0329
14 January 1977

Executive Registry
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MEMORANDUM FOR: Director of Central Intelligence

FROM : Anthony A. Lapham
General Counsel

SUBJECT : Memorandum of Understanding and Nondisclosure
Agreements for Use with Senate Select Committee
on Intelligence

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1. The referenced documents are attached here (Attachment A). They have undergone certain additional negotiation since you saw them last (19 December 1976; the copies you saw then are also attached at Attachment B).

2. The Memorandum of Understanding has not been changed in any significant way.

3. The Nondisclosure Agreement has undergone some changes. Of importance is the fact that, where categories of information requiring protection from unauthorized disclosure are described, the specific term "intelligence sources and methods" has been replaced by a phrase which speaks of "...material or information ... which has been identified ... by the Director of Central Intelligence...." I believe this new wording is quite acceptable, and is in fact more comprehensive in its coverage.

4. Within the Agency, we have the concurrence of the Director of Security, the Legislative Counsel, and myself as to the acceptability of the documents in their current form.

5. We are advised verbally by representatives of the SSCI staff that the documents are also acceptable to them, and they believe, the Chairman.

6. In an attempt to conclude this procedure before your departure, I recommend that we do not attempt additional formal coordination within the Agency.

7. I believe these documents are quite acceptable from your standpoint.

8. I recommend that you sign the Memorandum of Understanding contained herein at Attachment A. The Nondisclosure Agreement is incorporated through reference and does not require your signature. We will then arrange for transmission of the package to the Chairman and Vice Chairman for their signatures.

[Redacted Signature]

Anthony A. Lapham

STAT

CONCUR:

[Redacted Signature]

Director of Security

[Redacted Signature]

Legislative Counsel

15 Jan 1977
Date

17 Jan 1977
Date

APPROVAL:

/s/ George Bush

Director of Central Intelligence

17 JAN 1977

Date

Distribution:

Original - DCI

- 1 - DDCI
- 1 - ER via Exec Secretary
- 1 - Director of Security
- 1 - Legislative Counsel
- 1 - OGC

1. S. Res. 400 of the 94th Congress provides in Section 6 that no employee of the Senate Select Committee on Intelligence (hereinafter SSCI) or any person engaged by contract or otherwise to perform services for or at the request of the SSCI (hereinafter SSCI employee) shall be given access to any classified information by the SSCI unless such employee has (1) agreed in writing and under oath to be bound by the Rules of the Senate (including those in the jurisdiction of the Select Committee on Standards and Conduct), and by the rules of the SSCI, and (2) received an appropriate security clearance as determined by the SSCI in consultation with the Director of Central Intelligence (DCI). In order to fulfill the mandate under S. Res. 400, the SSCI is entering into this agreement with the DCI who, under the National Security Act of 1947, is charged with responsibility for the protection of intelligence sources and methods from unauthorized disclosure.

2. Under this agreement the following procedures will be instituted so that the Senate Select Committee on Intelligence may obtain the advice of the DCI with respect to security clearances to be granted to SSCI employees.

a. The SSCI and the Attorney General have agreed that, at the request of the Chairman and Vice Chairman of the SSCI, the Federal Bureau of Investigation (FBI) will conduct background investigations of prospective SSCI employees. These investigations of prospective SSCI employees will be to ascertain facts and information relevant to their suitability for employment and trustworthiness for clearance for access to information classified under the provisions of Executive Order 11652.

b. The investigations conducted by the Federal Bureau of Investigation will be conducted in accordance with the standards set forth in Director of Central Intelligence Directive No. 1/14 dated 13 May 1976, "Minimum Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information."

c. Under the agreement between the SSCI and the Attorney General, the FBI will furnish summary memoranda and supporting materials containing the results of background investigations to the SSCI Chairman and Vice Chairman or their designated representatives.

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d. When the SSCI reaches a tentative decision to employ such an individual, prior to implementing this decision, a copy of the summary memorandum and supporting materials will be furnished to the DCI or the DCI's designated representative, by the SSCI.

e. The DCI or the DCI's designated representative will review the summary memorandum and supporting materials for the purpose of determining whether the individual meets the criteria for access to sensitive compartmented information as specified in DCID 1/14. If the DCI's finding in this regard is affirmative the Chairman and Vice Chairman will be advised in writing. If the DCI's review of the material indicates that the individual may not meet the standards of DCID 1/14 and, therefore, may not be eligible for access to sensitive compartmented information, the DCI or the DCI's designated representative will notify, in writing, the Chairman and Vice Chairman, and will consult with the Chairman and Vice Chairman or their designated representative, stating the reasons for this assessment.

f. The SSCI, with due consideration for the comments of the DCI or the DCI's designee, will make the final determination as to whether the individual will or will not actually be employed.

3. The SSCI and the DCI further agree that:

a. The DCI or the DCI's designated representative will render this advice to the Chairman and Vice Chairman before the close of the third normal work day following receipt of the material from the SSCI, unless the DCI or the DCI's designated representative notifies the SSCI that an additional period of time, not to exceed thirty days, is needed to make a determination as to the individual's access to sensitive compartmented information under the standards of DCID 1/14. The summary memorandum and supporting materials provided by the SSCI will be returned to the SSCI at the same time that the DCI informs the Chairman and Vice Chairman of the results of the review conducted under the DCI's purview.

b. The DCI will insure that no copies of the summary memorandum and supporting materials are made in the course of the review under the DCI's purview.

c. The DCI shall insure that the review of the summary memorandum and background materials provided by the SSCI is accomplished by a select and limited number of individuals competent to conduct such reviews. Further, the DCI shall insure that access to this material is strictly limited and that a log is maintained to reflect the identity of any and all individuals under the DCI's cognizance who are given access to summary memoranda and supporting materials.

d. The DCI or the DCI's designated representative shall, as he deems necessary, record the identity of the individual on whom the review is conducted. A copy of any memorandum to the Chairman and Vice Chairman rendering the results of the DCI's review, and notifications for the record concerning any advice presented orally to the Chairman and Vice Chairman will also be maintained, as appropriate.

e. The DCI shall insure that information obtained from the summary memorandum and supporting materials will not be disseminated beyond the group of individuals conducting the review without notification of, and approval by, the Chairman and Vice Chairman of the SSCI except as otherwise provided in this agreement.

f. The SSCI will provide the DCI with a list of persons cleared by the SSCI for access to classified information and will promptly advise the DCI when an individual granted a clearance terminates employment with the SSCI.

g. DCI files will reflect whether an SSCI employee is approved for access for specific types of sensitive compartmented information and the DCI will arrange for such an SSCI employee an appropriate briefing on sensitive compartmented information handling procedures.

h. The DCI will inform the Chairman and Vice Chairman or their designated representative of any adverse information which comes to the attention of the DCI after the DCI's review described above that raises questions concerning the suitability for employment or trustworthiness of any SSCI employee which the DCI is not obligated by law, regulation, presidential directive or executive order to provide to the FBI.

4. Pursuant to Section 8 of S. Res. 400 the SSCI shall make regulations to protect the confidentiality of information in the possession of the Select Committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures.

5. The Chairman and the Vice Chairman and the DCI hereby establish the following procedures, to prevent the unauthorized disclosure of protected information:

a. The SSCI shall require of each SSCI employee, as conditions to employment, to agree in writing and under oath to the terms of the Nondisclosure Agreement which is attached, and to be bound by the Rules of the Senate (including those in the jurisdiction of the Select Committee on Standards and Conduct), and the rules of the SSCI and in particular those SSCI rules relating to the protection of information supplied to the SSCI by the Executive Branch. Copies of these written agreements between the SSCI and the SSCI employees shall be furnished to the DCI or the DCI's designated representative upon request.

b. An employee of the SSCI seeking to publish, or otherwise disclose, any material concerning the activities of, or information held by, the Committee shall submit this material, in advance, to the Chairman and the Vice Chairman. The Chairman and the Vice Chairman shall consult with the DCI concerning the public disclosure of such material. In the event there is disagreement between the Chairman and the Vice Chairman, and the DCI, as to the release of the material, the Chairman and the Vice Chairman will bring the matter before the Committee, in order to invoke the review procedure of Section 8 of S. Res. 400 of the 94th Congress.

6. The SSCI and the DCI recognize that nothing in this Memorandum of Understanding or in the Nondisclosure Agreement limits in any way any of their rights, responsibilities, or privileges which may exist under S. Res. 400, statutes, or the Constitution of the United States.

/s/ George Bush

Chairman, SSCI

DCI

17 JAN 1977

Date

Date

Vice Chairman, SSCI

Date

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